Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Jurisdictional Separations Related to	)	CC Docket No. 80-286
Communications Assistance for Law	)	
Enforcement (CALEA) and Referral	)	ET Docket No. 04-295
to the Federal-State Joint Board	)	

REPLY COMMENTS OF QWEST CORPORATION

Qwest Corporation ("Qwest") respectfully submits its reply to comments filed in response to the Federal-State Joint Board's ("Joint Board") *Public Notice* concerning the allocation of CALEA-related costs for jurisdictional separations purposes.[1]

I. INTRODUCTION AND SUMMARY

Twelve parties filed comments in response to the Joint Board's *Public Notice*.[2] The parties consisted of large incumbent local exchange carriers ("ILECs"), small/rural ILECs (and associations representing them), consultants supporting small/rural ILECs, and VeriSign, a non-

---

[1] *Public Notice*, Federal-State Joint Board on Jurisdictional Separations Seeks Comment on Communications Assistance for Law Enforcement Act (CALEA) Issues, CC Docket No. 80-286, ET Docket No. 04-295, DA 05-535, rel. Mar. 2, 2005.

[2] Atlas Telephone Company, Central Telephone Company, Cherokee Telephone Company, Hinton Telephone Company, Medicine Park Telephone Company and Oklahoma Western Telephone Company ("Atlas, *et al.*"); BellSouth Corporation ("BellSouth"); Fred Williamson and Associates, Inc. ("Fred Williamson and Associates"); GVNW Consulting Inc. ("GVNW"); John Staurulakis, Inc. ("John Staurulakis"); National Telecommunications Cooperative Association and Organization for the Promotion and Advancement of Small Telecommunications Companies ("NTCA"); Qwest Corporation; SBC Communications ("SBC"); SEI Communications, Inc., Southeastern Indiana Rural Telephone Cooperative, Inc., Perry-Spencer Rural Telephone Cooperative, Inc. d.b.a. PSC and Perry-Spencer Communications, Inc. ("SEI"); Telecom Consulting Associates ("TCA"); VeriSign, Inc. and NetDiscovery Service ("VeriSign"); Verizon Telephone Companies ("Verizon").

ILEC service provider. The comments on the treatment of CALEA-related costs for separations purposes can be summarized as follows:

- With the exception of GVNW, all other parties argue that revisions to Parts 32 and 36 are unnecessary.
- The large ILECs and some other commentors argue that no CALEA-related separations changes should be made before the expiration of the interim separations freeze at the earliest.[3]
- Similarly, the large ILECs and some other parties argue that any changes to CALEA-related cost allocations should be addressed as part of comprehensive separations reform.[4]
- Many small/rural ILECs support the direct assignment of all CALEA-related costs to the interstate jurisdiction.[5]
- A number of small/rural ILECs and their consultants assert that CALEA-related costs can be directly assigned without conflicting with the requirements of the interim separations freeze.[6]

Most commenting parties appear to agree with Qwest's position that the CALEA issues raised in the Joint Board's *Public Notice* are inextricably intertwined with the Federal Communications Commission's ("Commission") decision to freeze Part 36 category relationships and jurisdictional cost allocation factors[7] and that CALEA should not be addressed in isolation. They also recognize that CALEA-related issues are just one set of many important issues that should

---

[3] BellSouth at 2, Qwest at 5, SBC at 7, Verizon at 2-5, Fred Williamson and Associates at 2, Atlas Tel, *et al*. at 3, John Staurulakis at 1-2.

[4] BellSouth at 2, Qwest at 2, SBC at 2, Verizon at 1-2, Fred Williamson and Associates at 8, Atlas Tel, *et al.* at 4.

[5] Atlas Tel, *et al.* at 7, NTCA at 2-3, SEI at 5, TCA at 1, VeriSign at 4.

[6] Fred Williamson and Associates at 7, GVNW at 9, TCA at 3.

[7] *In the Matter of Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, *Report and Order*, 16 FCC Rcd 11382 (2001) ("*Freeze Order*").

be addressed in the context of comprehensive separations reform.[8] In the sections that follow, Qwest addresses some of these issues in more detail.

II. THE JOINT BOARD SHOULD NOT RECOMMEND ANY CALEA-SPECIFIC RULE CHANGES AT THIS TIME

No commenting party other than GVNW suggests that revisions to Parts 32, 36 or 69 of the Commission's rules are necessary at this time. Rather than "tweaking the rules" as GVNW proposes, the Joint Board and the Commission should devote their energies to comprehensive separations reform. As Fred Williamson and Associates observes:

> The jurisdictional allocation of CALEA costs is insignificant in comparison to the potential impact of comprehensive separations reform that may be implemented after expiration of the freeze. There does not seem to be a compelling reason to modify the jurisdictional allocations of CALEA related costs at this time.[9]

Qwest agrees -- comprehensive separations reform should be the priority of both the Joint Board and the Commission, not "piece meal" revisions of anachronistic separations rules to accommodate CALEA.

III. ANY REQUIREMENT THAT CALEA-RELATED COSTS BE DIRECTLY ASSIGNED WOULD BE INCOMPATIBLE WITH THE SEPARATIONS FREEZE

Some parties assert that CALEA-related costs can be directly assigned under existing Part 36 rules and that any such direct assignment would not conflict with the separations freeze.[10] This is not true for ILECs subject to price cap regulation.[11]

---

[8] For example, the Commission has already concluded that the separations treatment of Internet traffic and other important issues should be addressed in the context of comprehensive separations reform. *Id.* at 11383-84 ¶ 2, 11399-403 ¶¶ 34-42.

[9] Fred Williamson and Associates at 8.

[10] *See* note 6, *supra*.

[11] Qwest expresses no opinion on the impact of the direct assignment of CALEA costs on non-price cap ILECs subject to the interim separations freeze.

While it is true that the Part 36 rules permit direct cost assignment, CALEA investments and costs have not been separately identified in the Uniform System of Accounts or directly assigned either prior to the Commission's separations freeze or during the freeze.[12] As a result, direct assignment of CALEA-related costs would be incompatible with the Commission's *Freeze Order*.[13] Direct assignment would have an adverse impact on frozen category relationships and would be a direct violation of Section 36.3(b) which applies to price cap ILECs.[14]

Even if the Joint Board determines that CALEA-related costs should be directly assigned to the interstate jurisdiction, it should not recommend any such direct assignment until the Commission completes its comprehensive reform of separations and the existing separations freeze has expired.

---

[12] Prior to the separations freeze, Qwest accounted for and allocated CALEA investments and expenses by equipment category, as was required by the Part 36 rules. For example, a significant portion of CALEA-related investment is assigned to Account 2212, Digital Electronic Switching. Under the Part 36 rules, this investment is classified as Local Switching Equipment – Category 3 and allocated based on DEM (Dial Equipment Minutes).

[13] Contrary to the assertion of GVNW, the direct assignment of CALEA costs would "adversely impact" the separations freeze. GVNW at 9. In arguing that the direct assignment of CALEA-related costs will not have an affect on frozen factors or category relationships, GVNW conveniently ignores language in paragraph 23 of the *Freeze Order* that makes it clear that that the Commission's statement that "the continuation of direct assignment of costs" will not "adversely impact the stability of separations results throughout the freeze" applies only to costs that were "directly assigned" prior to the freeze. *Freeze Order*, 16 FCC Rcd at 11395 ¶ 23. As noted above, CALEA costs were not directly assigned prior to the separations freeze.

[14] *See* 47 C.F.R. § 36.3(b) which states: "Effective July, 2001, through June 30, 2006, local exchange carriers subject to price cap regulation, pursuant to §61.41, shall assign costs from the part 32 accounts to the separations categories/sub-categories, as specified herein, based on the percentage relationships of the categorized/sub-categorized costs to their associated part 32 accounts for the twelve month period ending December 31, 2000. If a part 32 account for separations purposes is categorized into more than one category, the percentage relationship among the categories shall be utilized as well. Local exchange carriers that invest in types of telecommunications plant during the period July 1, 2001, through June 30, 2006, for which it had no separations category investment for the twelve month period ending December 31, 2000, shall assign such investment to separations categories in accordance with the separations procedures in effect as of December 31, 2000."

IV. CONCLUSION

As most of the commenting parties point out, it would be unwise to adopt any CALEA-specific accounting or separations changes at this time. These parties urge the Joint Board and the Commission to pursue comprehensive separations reform -- not CALEA-specific changes which represent a miniscule portion of the costs subject to jurisdictional separations. Qwest agrees with this position and urges the Joint Board and the Commission to address CALEA-related separations changes in its upcoming comprehensive review of the Part 36 rules and not separately. In addition, any CALEA-related separations changes should be implemented post-freeze and at the same time as other separations reforms.

Respectfully submitted,

QWEST CORPORATION

By: /s/ Timothy M. Boucher
Blair A. Rosenthal
Timothy M. Boucher
Suite 950
607 14th Street, N.W.
Washington, DC 20005
(303) 383-6608

Its Attorneys

Of Counsel,
James T. Hannon

April 18, 2005

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY COMMENTS OF QWEST CORPORATION** to be: 1) filed with the FCC via its Electronic Comment Filing System in CC Docket No. 80-286 and ET Docket No. 04-295; 2) served, via e-mail on Ms. Sheryl Todd of the Wireline Competition Bureau at sheryl.todd@fcc.gov; 3) served, via e-mail on the FCC's duplicating contractor Best Copy and Printing, Inc. at fcc@bcpiweb.com., and 4) served via First Class United States Mail, postage prepaid, on the parties listed on the attached service list.

Richard Grozier
Richard Grozier

April 18, 2005

Steve Meltzer
John Staurulakis, Inc.
Suite 200
7852 Walker Drive
Greenbelt, MD 20770

Edward Shakin
Julie Chen Clocker
Michael E. Glover
Verizon
Suite 500
1515 North Court House Road
Arlington, VA 22201-2909

TCA, Inc. – Telcom Consulting Associates
Suite 200
1465 Kelly Johnson Boulevard
Colorado Springs, CO 80920

Theodore R. Kingsley
Richard M. Sbaratta
BellSouth Corporation
Suite 4300
675 West Peachtree Street
Atlanta, GA 30375-0001

Paul L. Cooper
Fred Williamson & Associates, Inc.
Suite 200
2921 East 91st Street
Tulsa, OK 74136-3355

Tamber Ray……………………………….SEI Comm.
The Adams Legal Firm, LLC
#301
1474 North Point Village Center
Reston, VA 20194

National Telecommunications
Cooperative Association
L. Marie Guillory
Jill Canfield
10th Floor
4121 Wilson Boulevard
Arlington, VA 22203

Organization for the Promotion
and Advancement of Small
Telecommunications Companies
Stuart Polikoff
Suite 700
21 Dupont Circle, N.W.
Washington, DC 20036

Terri L. Hoskins
Gary L. Phillips
Paul K. Mancini
SBC Communications Inc.
Suite 400
1401 I Street, N.W.
Washington, DC 20005

Jeffry H. Smith
GVNW Consulting, Inc.
POB 2330
Tualatin, OR 97062

Anthony M. Rutkowski
VeriSign Communications Services Div.
21355 Ridgetop Circle
Dulles, VA 20166-6503

Raj Puri
NetDiscovery Service
487 East Middlefield Road
Mountain View, CA 94043-4047

Brian Cute
VeriSign Communications Services Div.
Suite 410
1666 K Street, N.W.
Washington, DC 20006-1227

Charles C. Curtis.................................Atlas
ACRS 2000, Inc.
817 NE 63rd Street
Oklahoma City, OK 73105

050418 CC80286 Reply COS.doc
Updated 04/18/2005